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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,086	07/14/2003	David Lekhtman	8762-21US	3622

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EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,086

Applicant(s)

LEKHTMAN, DAVID

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 4 recites the limitation "said platform assembly" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. It will be assumed that this recitation refers to the platform accessory. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-6, 8, 10-13, and 15 are rejected under 35 U.S.C. 102(a) as being anticipated by Gruhn et al. (US 6,073,572). Docking member (11) is the body. Docking member (11) is unitary (column 3, line 14). Docking member (11) is part of a floating dock so docking member is necessarily buoyant. Sockets (13) the mounting sockets. Sockets (13) are integrally with the docking member (11).

4. Regarding claim 2, socket (13) engages a mounting member (41) of an accessory (40).

5. Regarding claim 3, pole bracket (40) is an accessory.

6. Regarding claim 4, Gruhn discloses that a ladder may be interlocked with the socket (13) in the same fashion as pole member (40) (column 3, lines 35-44).

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7. Regarding claim 5, mounting member (16) is configured to be inserted into the socket (13).

8. Regarding claim 6, Gruhn shows a plurality of sockets (13). One of the sockets can be a handle.

9. Regarding claim 8, the middle socket on a side with three sockets (see figure 1) is centrally located. The socket can connect to pole bracket (40) which connects to a pole which acts as an anchor.

10. Regarding claim 10, the docking member (11) is formed of molded polyethylene (column 2, lines 23-24).

11. Regarding claim 11, connecting member (12) is the body. The connecting member is unitary and buoyant. The connecting member has a plurality of integral mounting members (16).

12. Regarding claim 12, Gruhn shows two platforms (11) with sockets (13). Gruhn shows two bridging modules (12) with mounting members (16).

13. Regarding claim 13, every material has some inherent degree of flexure. Therefore the completed dock (10) will have at least some degree of resilient flexion and articulation.

14. Regarding claim 15, the sockets (13) are formed in the bottom of the docking members and receive the mounting member (16) at the bottom of the docking member.

15. Claims 1, 7, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Mueller (US 6,029,845). Regarding claim 1, base (1) is the unitary body. Base is buoyant foam. Base (1) has a plurality of spaced sockets (2, 3).

16. The recitation “for a modular scaleable floatable assembly of platform modules interconnected by at least one bridging module” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The recitation “for individually receiving ... in a selected configuration” is an intended use recitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

17. Regarding claim 7, the base (1) is circular (see figure 1).

18. Regarding claim 9, the sockets (2, 3) extend through the body at bores (6).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruhn (US 6,073,572) in view of Kordes (US 5,906,172). Gruhn discloses all of the limitations of claim 12. Gruhn does not disclose that at least some platforms are circular. Gruhn does, however, teach that the docking member may be of any shape (column 2, lines 14-15). Kordes shows a modular floating assembly that comprises at least one circular shaped module that is connected to another module (figure 5). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gruhn by making at least one docking member (11) circular. The motivation would be to form a circular platform as suggested by Kordes.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Von Norring shows a floating platform that is circular and has an anchor attachment. Srock shows a modular floating platform with anchor attachments. Ban et al. shows a modular floating platform with various shapes. Tsou shows a modular floating platform with various shapes.

22. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright
Patent Examiner
Art Unit 3617

 4/21/04